

Appendix J

Statement of Consideration

**STATEMENT OF CONSIDERATION
RELATING TO SIP REVISION FOR CHRISTIAN COUNTY REDESIGNATION TO
ATTAINMENT
FOR 8-HOUR OZONE
Amended After Comments**

Environmental and Public Protection Cabinet

Department for Environmental Protection
Division for Air Quality

- (1) A public hearing on the State Implementation Plan (SIP) revision for redesignation of Christian County to attainment for the 8-hour ozone standard was held on April 18, 2005, at 6:00 p.m. The hearing was held at 2800 Ft. Campbell Blvd., Hopkinsville, Kentucky. Written and oral comments were received during the public comment period.
- (2) The following individuals attended and/or provided written comments:

Name and Title

Mike Baker
Steve Bourne
John Mahre
Kay T. Prince, Chief
Steve Tribble
Robert Ukeiley

Organization

EDC, Hopkinsville, KY
Director, Planning Commission
MPO, Christian County
U.S. EPA Region 4, Air Planning Branch
Judge Executive, Christian County
Law Office, Berea, KY

- (3) The following individuals from the Kentucky Environmental and Public Protection Cabinet responded to the comments:

Lona Brewer, Environmental Branch Manager	Division for Air Quality
John Gowins, Environmental Control Supervisor*	Division for Air Quality
Susan Weaver, Environmental Technologist III	Division for Air Quality

* Agency moderator

Response to Comments on the proposed revision to the State Implementation Plan (SIP) to redesignate Christian County as attainment for the National Ambient Air Quality Standard (NAAQS) for ozone.

1. (a) **Comment:** The three year average of the 4th highest maximum daily 8 hour average for the Christian County ozone monitor for 2001-2004 is .0833333333 repeating ppm.

Robert Ukeiley, law office, Berea, KY

- (b) **Response:** The Cabinet acknowledges this comment. The National Ambient Air Quality Standard (NAAQS) for 8-hour ozone is 0.08 parts per million (ppm), expressed at two decimal places. An area shows a violation of the standard when the calculated 3-year design value for 8-hour ozone is 0.085 ppm and above. Thus, following typical rounding conventions, the calculated 3-year average 0.083 rounds down to 0.08, which achieves the standard. Conversely, values of 0.085 and higher will round up to 0.09 which is a violation of the NAAQS.

2. (a) **Comment:** Using a rounding convention that says anything less than less than 0.085 is less than 0.08 ppm is arbitrary and capricious because that rounding convention is based on limitations to ozone monitors that existed over a decade ago. These limitations on ozone monitors no longer exist.

Robert Ukeiley, law office, Berea, KY

- (b) **Response:** The Cabinet disagrees. Please see the response above or USEPA's approved methodology which can be found in USEPA's "Guideline on Data Handling Conventions for the 8-Hour Ozone NAAQS," (EPA-454/R-98-017).

3. (a) **Comment:** Moreover, the NAAQS of 0.08 ppm underwent significant scientific and legal review including being affirmed by the United States Supreme Court. The 0.085 ppm level has never undergone any such review.

Robert Ukeiley, law office, Berea, KY

- (b) **Response:** The Cabinet acknowledges this comment. According to the *Federal Register* published on July 18, 1997 (page 4), the Administrator "solicited comments on alternative 8-hour standards set at 0.09 ppm, which generally represents the continuation of the present level of protection, and 0.07 ppm, which would be highly precautionary in nature, as well as retaining the current primary standard." The final decision on the revision to the ozone NAAQS was based on thorough review of the scientific information on human health effects associated with exposure to ambient levels of ozone, including evaluation of key studies published through 1995. The rationale for the final decision regarding the ozone primary NAAQS included consideration of several factors noted in detail in the *Federal Register* listed above, as well as the health effects information, and human exposure and risk assessment. However, as stated above, using USEPA accepted rounding conventions Christian County is in attainment for the 8-hour ozone standard based on the 2002-2004 monitoring data.

4. (a) **Comment:** Moreover, the American Academy of Pediatrics has stated that “During implementation [of the 8-hour ozone standard], the standards should not be weakened in

any way that decreases the protection of children’s health.

Robert Ukeiley, law office, Berea, KY

- (b) **Response:** The Cabinet acknowledges this comment, however it is outside the scope of this proposed SIP revision.

5. (a) **Comment:** Finally was (sic) a matter of math, 0.0823 is greater than 0.08. Therefore, you owe it to the people and wildlife of Kentucky to at least wait until you have had a chance to review all of the ozone monitoring data from 2005 before redesignating Christian County.

Robert Ukeiley, law office, Berea, KY

- (b) **Response:** The Cabinet disagrees. Kentucky will review the ozone monitoring data for 2005. However with the current 3 years of data showing attainment of the NAAQS, it is appropriate at this time for this agency to request redesignation to attainment for Christian County.

6. (a) **Comment:** This is particularly appropriate because current science clearly shows that even the 0.08 ppm over an eight hour average is not adequately protective of public health and welfare.

Robert Ukeiley, law office, Berea, KY

- (b) **Response:** The Cabinet acknowledges this comment; however it is outside the scope of this proposed SIP revision.

7. (a) **Comment:** The concern that we have is that the conditions that created the non-attainment result is, really, two items: One, the fact that we have a monitoring station in Christian County. And, two, the weather. And those particular items created a situation that placed us on the non-attainment list, and we have done nothing over the last couple of years, and because of the favorable weather conditions, we are now being redesignated or reclassified as attainment/maintenance.

Steve Bourne, Director, Planning Commission

- (b) **Response:** The Cabinet disagrees. The monitoring station in Christian County was established to help promote growth in the area by providing preconstruction monitoring data required under PSD regulations. Steady growth was occurring in the county and sources would have had to perform that monitoring themselves if this data had not been available. Once the Tennessee Valley Authority (TVA) established an ozone monitoring station and implemented a USEPA-approved quality assurance program, the sources were relieved of the burden and costs of pre-construction monitoring requirements. In 1997, USEPA established the new, more stringent, 8-hour ozone standard to protect public health. Based on the initial three years of data submitted to USEPA, Christian County was not attaining the National Ambient Air Quality Standard for ozone (NAAQS) and

therefore the area was in violation of a public health standard. Due to documented permanent and enforceable reductions to ozone precursor emissions over the last few years, the most recent data submitted to USEPA (2002-2004) shows Christian County is attaining the NAAQS.

The core of the Kentucky maintenance plan for Christian County is the reductions noted for mobile (and non-highway mobile) source emissions under the various, nationally-implemented, clean fuel programs. Added significant reductions in NOx emissions occurred under the NOx SIP Call at the TVA power plants (Paradise and Shawnee) and throughout the NOx SIP Call region. Further reductions will occur in Kentucky under the reasonable, available, and practical provisions of 401 KAR 51:012 and additional MACT requirements. As well, to continue to protect public health, contingency measures will be implemented should future ozone data indicate the levels again violate the ozone NAAQS and impact public health.

8. (a) **Comment:** You ought to be in a posture where you can do things that benefit and help your community. We can do nothing in this particular situation, and if we have a hot, dry summer this year, we may rotate back on the non-attainment list, which concerns us greatly.

Steve Bourne, Director, Planning Commission

- (b) **Response:** The Cabinet acknowledges this comment. The maintenance plan being submitted for Christian County contains contingency measures to be implemented as necessary when working toward the overall goal of positively impacting public health and attaining the NAAQS. The Cabinet has volunteered to work with Christian County officials in developing local emission control programs to help control emissions on a local level if they choose to do so.

9. (a) **Comment:** We'd like to see the monitoring station moved out of Christian County. Obviously, it has an inequitable effect on our community with respect to transportation, industrial recruitment, a lot of things.

Steve Bourne, Director, Planning Commission

- (b) **Response:** The Clean Air Act, (Part D, Subpart I, Section 7505a), establishes that the SIP will provide for the maintenance of the primary NAAQS for the pollutant in the area concerned for at least 10 years. Kentucky has committed in the proposed Christian County SIP revision, as required under maintenance plan provisions in the CAA, to continue collecting ozone data in Christian County for at least 10 years to ensure the protection of public health.

10. (a) **Comment:** The final SIP submittal should document that the air quality improvements are due to permanent and enforceable emission reductions, and not merely to unusually favorable meteorology over the recent past years.

Kay T. Prince, USEPA

- (b) Response:** While acknowledging that meteorology is a factor in ozone formation, the Cabinet has also noted in the submittal that permanent and enforceable reductions have occurred recently in the mobile and non-highway mobile sectors under programs like Tier 2 and the various national clean fuels programs. As well, permanent and enforceable reductions in NOx occurred throughout the region due to the requirements under the NOx SIP Call. A thorough review of air monitoring data over the last five years shows a steady decline in overall ozone values throughout the region, with the exception of 2002. It can be argued that 2002 was the meteorological anomaly and that without the unusual weather patterns of 2002, the area would have been in compliance before final designations were made.
- 11. (a) Comment:** Please clarify in the final SIP submittal what, if any, RACT requirements apply in the County and if RACT does apply, what is the schedule for the subject sources to install RACT? Also, for any applicable RACT requirements to be claimed as the basis for permanent and enforceable emission reductions, a projection of the emission reductions must be included.
Kay T. Prince, USEPA
- (b) Response:** The Cabinet concurs, and the narrative statements have been revised to more adequately describe requirements under 401 KAR 50:012.
- 12. (a) Comment:** The text on page 11 of the narrative section states that Tables 4 and 5 summarize VOC and NOx emissions, respectively, for 2002, 2004 and 2016, however only 2002 and 2004 data are presented in the tables. Please make these references consistent.
Kay T. Prince, USEPA
- (b) Response:** The Cabinet concurs, and the references have been corrected.
- 13. (a) Comment:** The first paragraph of the Emission Projection Methodology section on page 13 of the narrative text states that section 110(k) of the Clean Air Act Amendments requires that a projection inventory indicates that the area will remain in attainment. For clarity as to the basis for this type of maintenance demonstration, we recommend replacing the reference to section 110(k) with reference to the EPA guidance memorandum included in Appendix B of the package. The memorandum is from John Calcagni, Director, Air Quality Management Division, to the Air Directors in EPA Regions 1-10, "Procedures for Processing Requests to Redesignate Areas to Attainment," September 4, 1992.
Kay T. Prince, USEPA
- (b) Response:** The Cabinet concurs, and the reference to the CAA has been replaced with the reference to the Calcagni memo.
- 14. (a) Comment:** Table 1-2 in Appendix D (page 1.3). The NOx total of 13.23 should be 17.13 for the emissions in the row beginning with "Christian."
Kay T. Prince, USEPA

(b) Response: The Cabinet concurs, and the table has been corrected.

15. (a) Comment: Christian County wishes to support its redesignation as attainment.

Steve Trimble, Christian County Judge/Executive

John C. Mahre, Christian County, USEPA

(b) Response: The Cabinet acknowledges this comment.